

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

---

WAYNE SCHMELZLE

Plaintiff,

-v.-

Civil Action No.  
6:12-cv-1159 (GLS/ATB)

CAROLYN W. COLVIN,  
Acting Commissioner of  
Social Security

Defendant.

---

APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

Office of Peter W. Antonowicz  
148 West Dominick Street  
Rome, New York 13440

PETER W. ANTONOWICZ, ESQ.

**FOR THE DEFENDANT:**

Social Security Administration  
Office of Regional General Counsel  
Region II  
26 Federal Plaza - Room 3904  
New York, New York 10278

JEREMY A. LINDEN, ESQ.

GARY L. SHARPE,  
CHIEF JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-  
Recommendation by Magistrate Judge Andrew T. Baxter, duly filed June 5,

2013. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED that the Report-Recommendation of Magistrate Judge Andrew T. Baxter filed June 5, 2013 is ACCEPTED in its entirety for the reasons state therein; and it is further

ORDERED that the Clerk is directed to substitute Carolyn W. Colvin, Acting Commissioner of Social Security, for defendant Michael J. Astrue, and amend the caption accordingly; and it is further

ORDERED that the decision of the Commissioner is REVERSED and this case REMANDED, pursuant to sentence four of 42 U.S.C. § 405(g), for a proper determination of plaintiff's residual functional capacity and other further proceedings, consistent with the Report-Recommendation.

Proceedings on remand should be conducted on an expedited basis; and it is further

ORDERED, that the Clerk of the Court is to mail copies of the Order to the parties in accordance with the court's local rules.

IT IS SO ORDERED.

Dated: July 2, 2013  
Albany, New York

  
\_\_\_\_\_  
Gary L. Sharpe  
Chief Judge  
U.S. District Court